

BOARD OF CODE STANDARDS AND APPEALS

MINUTES

November 6, 2006

Members: Francisco Banuelos, Randy Coonrod, Randy Harder, Richard Hartwell, Bernie Hentzen, Gerald Herzberg, Ed Murabito, Warren Willenberg, John Youle

Present: Banuelos, Coonrod, Harder, Hartwell, Hentzen, Herzberg, Willenberg, Youle

Absent: Murabito

Staff Members Present: Kurt Schroeder, Maria Bias, Kortney Capello, Deb Legge, Elaine Hammons

The regular meeting of the Board of Code Standards and Appeals was called to order by Vice Chairman Youle on Monday, November 6, 2006, at 1:31 p.m. in the 1st floor Board Room, City Hall, 455 N. Main, Wichita, Kansas.

1. Approval of the Minutes of the October 2, 2006, meeting.

Board Member Coonrod made a motion to approve the October 2006 minutes as submitted. Board Member Hentzen seconded the motion. The motion passed unopposed.

2. Approval of the November 2006 license examination applications as follows:

There were no applications for license examination for November 2006.

3. Condemnation Hearings

Vice Chairman Youle requested that the Board Members and City Staff introduce themselves to the citizens in attendance.

Review Cases:

1. 2007 East 11th

Although unable to attend the hearing, Mr. Jim Torske represented the property by submission of a letter.

Ms. Legge reported that Sedgwick County Sheriff's Department had advised Mr. Torske that the deed to the property should be available to him sometime in early November 2006. Mr. Torske stated in his letter that he had purchased siding, windows, roofing materials and kitchen cabinets for the structure, but that the

County Attorney had cautioned him not to begin any repairs until he received the deed. In the meantime, Mr. Torske has removed all debris from the premises and has mowed the lawn. As soon as he receives the deed, he will commence the necessary repairs to the structure.

Board Member Hartwell made a motion to defer action on the property until the next regularly scheduled Board meeting. Board Member Banuelos seconded the motion. The motion carried, unopposed.

2. 814 West Clark

Timothy Carver was present as a representative for this property.

Ms. Legge distributed photos of the property, which showed its current condition; a note from the doctor regarding Mr. Carver's recent knee surgery was also provided by Mr. Carver. The physician had restricted Mr. Carver's physical activity, preventing Mr. Carver from completing the necessary repairs of the structure by the November hearing.

Mr. Carver explained to the Board that his limited activity would delay completion of the repairs; however, he speculated that an additional thirty days would allow enough time to finish the work. He told that Board that he had installed part of the roofing, and he had secured the windows and doors.

A motion was made by Board Member Hartwell to grant an additional thirty days for completion of the work, maintaining the structure in a clean and secure condition. If the repairs are not complete by the December hearing, Mr. Carver is to appear before the Board to provide an update of the status. Board Member Herzberg seconded the motion. The motion was approved.

3. 4031 East Stearman

There was no one present to represent this property.

At the September 11, 2006, hearing, the new owner appeared before the Board to explain that the previous owner had been indicted on Federal criminal charges and was incarcerated. Although the purchaser had already paid for the property, the Federal Government had filed a lien against it, prohibiting him from proceeding with repairs.

After a site inspection, Central Inspection staff reported that there were tall grass and weeds on the premises; however, the structure was secure. The taxes are current.

Board Member Harder made a motion to send the property to the City Council with a recommendation of demolition, ten days to start and ten days to complete

demolition. Board Member Willenberg seconded the motion. The motion carried unanimously.

4. 1421 North Madison (Garage)

The owner of this property, Robert Mathenia, was unable to attend the hearing due illness.

Mr. Mathenia contacted Central Inspection to provide an update on the garage. After assessing the condition of the building, Mr. Mathenia's insurance provider notified him that he would be compensated for only the roof of the garage. Mr. Mathenia also relayed to inspection staff that he had received three bids for wrecking the structure.

Board Member Coonrod made a motion to send the property to the City Council with a recommendation of demolition, ten days to start and ten days to complete demolition. Board Member Harder seconded the motion. The motion was approved.

5. 2612 East 13th

There was no one in attendance to represent this property.

The new owner of this property, Paul O'Neill, was before the Board at the September 11, 2006, hearing. At that time, Mr. O'Neill was awaiting receipt of the deed prior to beginning repairs.

The structure is currently secure and the premise has been mowed.

A motion was made by Board Member Harder to grant an extension of thirty days to begin repairs or reappear before the Board. Board Member Coonrod seconded the motion. The motion passed.

6. 2843 East Stadium

The new owner, Troy Newman, represented the property by submission of a letter.

After purchasing the property at a tax foreclosure sale, Mr. Newman was still waiting for receipt of the deed at the date of this hearing.

Board Member Banuelos made a motion to defer action on the property until the next regularly scheduled meeting. Board Member Hentzen seconded the motion. The motion carried.

7. 416 North Ash

There was no one present to represent this property.

This is a one-story frame dwelling about 26 X 41 feet in size; it is vacant and open; it has been badly damaged by fire.

Board Member Coonrod made a motion to refer the property to the City Council for demolition action, ten days to start and ten days to complete demolition. Board Member Hartwell seconded the motion. The motion was approved.

8. 1149 North Market

William Graham, husband of one of the heirs (who is deceased), attended the hearing on behalf of this property.

One of the heirs to the property, Carlos Guillory, is presently incarcerated and expected to be in prison for approximately eighteen months longer. Copies of correspondence from Mr. Guillory were included with the information presented to the Board.

This two-story frame dwelling is approximately 34 X 50 feet in size. The property has been vacant for at least two years; it has a shifting block foundation; it has a badly deteriorated, rotted front porch; the wood lap siding and wood trim are deteriorating. The active file was initiated in February of 1999. Numerous notices have been issued, and the case has gone to court several times.

The structure is boarded up, however, there are some panels missing from one of the doors. The taxes from 2002 through 2005 are delinquent.

Vice Chairman Youle asked Mr. Graham to address the Board regarding his plan for repairing this property.

Mr. Graham explained that he represented his deceased wife's interests in the property. Of the four heirs to the property, one was incarcerated; one was deceased; the eldest sibling had no interest at all in the property; and the remaining heir was currently residing in a halfway house and had expressed his desire to sell the property. Mr. Graham told the Board that he was unsure of the legalities that would be involved in an attempt to rehabilitate the property since he was not one of the heirs and had no legal claim to the estate. Mr. Graham stated that he hoped to obtain consent from whatever authority could grant him permission to begin working on the property.

Mr. Graham said he considered paying the delinquent taxes, but was uncertain if he should make the payment without being assured that the effort would not be futile. He added that he wanted to follow through with his wife's wishes, which entailed selling the structure and providing her portion of the proceeds to their daughter.

Ms. Legge interjected that Central Inspection received numerous complaints about the condition of the structure; she said that Environmental Services also received frequent complaints about the tall weeds. In spite of the complaints, Ms. Legge told the Board that she felt it was a repairable structure.

Board Member Coonrod responded that the Board did not get involved in the legalities of the ownership with regard to the heirs, but that the concern of the Board was the condition of the property. He also noted that expenditures toward the property could ultimately be a forfeit of monies should Mr. Graham be unable to follow through with the required repairs.

Mr. Schroeder asked Mr. Graham if he had seen the property. Mr. Graham said that he had driven by the site, but had not been able to extensively view the structure.

Board Member Coonrod clarified that the Board generally moved forward on properties such as this one, recommending them for demolition to the City Council. He conceded that the circumstances surrounding the heirs to the estate made matters more complicated for the parties involved.

Vice Chairman Youle suggested that Mr. Graham might wish to investigate the costs involved in repairing the structure before making a financial commitment to pursuing the repairs.

Board Member Banuelos proposed that Mr. Graham check with the other heirs and that a decision be made among them whether to repair or sell the property.

Board Member Hartwell said that he was in favor of allowing thirty days to determine whether the family wished to pay the delinquent taxes and either repair or sell the structure and then report back to the Board with their decision.

Board Member Harder also suggested that Mr. Graham or one of the family members contact a realtor that could estimate the worth of the property. Vice Chairman Youle recommended that Mr. Graham obtain the list of required repairs from Central Inspection in order to get some idea of the scope of work that was needed.

A motion was made by Board Member Coonrod to allow thirty days for the owners to determine a course of action for the property and report back to the Board, maintaining the property in a clean and secure condition in the meantime. Board Member Hartwell seconded the motion. The motion carried.

9. 2232 North Woodland

There was no representative in attendance.

This one-story frame dwelling is approximately 31 X 50 feet in size. Vacant for about twelve years, the structure has a shifting block foundation; the siding is deteriorated; and the composition roof is deteriorated.

A motion was made by Board Member Banuelos to refer the property to the City Council for demolition action, ten days to start and ten days to complete demolition. Board Member Willenberg seconded the motion. The motion was approved.

10. 917 North Beech

Shirley Smith was present as the representative for this property.

This structure is a one-story frame dwelling, about 27 X 34 feet in size. It has been vacant for at least five years. The block foundation is shifting; there are broken and missing asbestos siding shingles; the composition roof is badly deteriorated and has holes and missing shingles; there are rotted wood soffits, fascia and trim.

The active file was started on this structure in January of 2001. Several violation notices were issued to the owner of record; additional notices were sent to the contract owner to whom the property was recently deeded.

The taxes are current. There are tree limbs, brush and debris, and bulky waste on the premises. The last inspection of the site confirmed that no repairs had been made; the structure is secure.

Vice Chairman Youle asked Ms. Smith to tell the Board what her plans were for the property.

Ms. Smith stated that the structure was beyond repair and that she intended to have the building razed. Vice Chairman Youle inquired whether Ms. Smith wanted the City to follow through with the demolition, or if she preferred to make the arrangements to have the structure wrecked. Ms. Smith asked what the procedures were should she decide to leave the demolition up to the City. Ms. Legge informed Ms. Smith that the City would require an asbestos survey; any asbestos in the structure would have to be removed before the demolition contractor could begin razing the structure. All costs would be billed to the property owner, and if not paid within thirty days, would be levied against the property as a special assessment. Ms. Legge advised Ms. Smith that it might be less costly for her, as the owner, to get bids on the wrecking because as a private owner, Ms. Smith would not be required to do the asbestos removal.

Mr. Schroeder further explained that even if the Board took action that day to refer the property to the City Council with a recommendation of demolition, it would be January of 2007 before the property went before the City Council for a final hearing. Ms. Smith expressed concern about impending financial obligations that might prevent her from have the structure demolished until after the first of the year. Mr. Schroeder told Ms. Smith that the City Council could grant an extension at the final hearing, and it would most likely be an additional thirty days beyond that time before Ms. Legge would actually hire a contractor to begin the demolition. In summation, Mr. Schroeder estimated that it would be at least February 2007 before Central Inspection took any action to proceed with the demolition. Ms. Smith determined that she would probably be able to begin the demolition process by February.

A motion was made by Board Member Coonrod to allow an additional thirty days before referring the property to the City Council with a recommendation of demolition, ten days to start and ten days to complete demolition, maintaining the property in a clean and secure condition in the meantime. Board Member Hentzen seconded the motion. The motion carried.

11. 2222 South Washington

There was no representative present for this property.

This one-story frame dwelling, 24 X 39 feet in size, has been vacant approximately two years. The structure has missing vinyl siding shingles; badly deteriorated composition roof; deteriorated front porch cover; and deteriorated wood trim.

A motion was made by Board Member Coonrod to refer the property to the City Council for demolition action, ten days to start and ten days to complete demolition. Board Member Hentzen seconded the motion. The motion carried.

4. Request by Richard and Deborah O'Flynn for approval of an alternate application for roofing installation for their home at 120 N. Westfield.

Mr. Schroeder distributed copies of Section R907.3 of the International Residential Code to the Board and summarized the amendment to the Code in 2002 that pertained to the appeal by Mr. and Mrs. O'Flynn. The Code change requires that, whenever two or more layers of roofing are removed, or when wood shakes or wood shingles are to be installed, the existing roofing applications have to be stripped down to the decking.

Mr. and Mrs. O'Flynn, accompanied by their roofing contractor, Neal Holland d/b/a Holland Roofing, sought Board approval to forego the removal of the initial wood shingle roof and use it as a solid decking for the new wood shake application.

Mrs. O'Flynn cited the reasons for approval of the alternate method of installation as being a more substantial base for the new roof; more cost effective overall; and there would be less mess for her home as well as less debris that would have to be hauled to the landfill.

Mr. O'Flynn pointed out that trash and debris produced by stripping off the old layers of roofing would fall between the gaps in the spaced sheathing and into the attic. He said that he was certain that the initial layer of wood shingles are sound and in good shape and would be a good base for the wood shakes.

Board Member Hartwell questioned the method of fastening the wood shakes to the wood shingles should the latter be left in tact. Mr. Holland responded that he would use 2 or 2 ½ inch staples to secure the new shakes. He stated that his experience had been that a solid decking beneath the underlayment was a better water barrier than spaced sheathing. According to the Cedar Bureau, Mr. Holland explained, solid decking is recommended in an environment wherever there is

blowing snow. Mr. Holland also noted that the O'Flynn's insurance company would not pay for solid decking to be installed once the wood shingles were removed, and in his opinion, it would be safer to have solid sheathing beneath the wood shakes due to the extreme pitch on portions of the roof.

Vice Chairman Youle questioned whether the wood shakes that were currently on the roof could be removed without causing damage to the underlying wood shingles. Mr. Holland replied that, although there might be some repairs required, he was certain that it could be done with little or no damage to the existing wood shingles. Mrs. O'Flynn said that she was satisfied that Mr. Holland's work would be of the highest quality.

Vice Chairman Youle inquired about the felt that would be used as underlayment. Although a final determination had not been made, Mr. Holland said that he was recommending using titanium felt over the wood sheathing.

Board Member Herzberg interjected that he saw no issue with leaving the wood shingles as a base for the application of wood shakes. It had been a regular practice up until the time that the Code was amended, and he has never had any problem with shingles blowing or a leak occurring from the wood shingles left as decking.

Board Member Coonrod asked Board Member Herzberg for his opinion on the best method for fastening the wood shakes onto the wood shingle base. Board Member Herzberg stated that his preference was staples because they were a more secure method of fastening down the shakes.

Board Member Coonrod asked Mr. Schroeder if concern about possible damage to the underlying shingles was what prompted the code amendment to disallow leaving the initial layer in a new roofing application. Mr. Schroeder agreed that the major consideration was the potential for shingles to be damaged and a new layer of roofing installed over them without necessary repairs.

Board Member Coonrod determined that he would be comfortable with the alternate method presented by Mr. Holland if the new wood shakes could be properly anchored to the decking.

Kortney Capello, Building Construction Inspector with Central Inspection posed the question of how the wood shingles would be repaired should dry rot be discovered once the current layer of shakes was removed. Mr. Holland said the damaged shingles would be replaced with No. 1 wood shingles as necessary. Mr. Capello inquired if Mr. and Mrs. O'Flynn were in agreement that new wood shingles would be used to repair any damaged wood shingles, whatever the extent of damage that might be found. Mr. O'Flynn assured him that he was aware of the possibility that repairs might be required and was comfortable with the predetermined resolution.

Board Member Harder expressed a concern that approval of the O'Flynn's request could initiate problems for code enforcement personnel in the future, particularly in

the interpretation of the specific code section that was under consideration. Mr. Schroeder said that a review of the section during the current code adoption process would probably be beneficial; clarification of the section at the very least would be helpful.

Board Member Hartwell made a motion to allow the removal of the top layer of wood shakes, leaving the existing wood shingles in place as decking, and apply a new layer of wood shakes, provided the underlying wood shingles are in good condition. An inspection of the shingles will be made prior to installation of the new underlayment and wood shakes.

Board Member Coonrod observed that the appeal had been presented as a request to leave the initial layer of wood shingles and that the alternative method of application had yet to be specified.

Board Member Hartwell amended his motion to include the installation of titanium underlayment, in lieu of standard felt underlayment, as the alternative method. Board Member Hentzen seconded the motion. The motion was approved.

With no other business to conduct, Board Member Hartwell made a motion to adjourn. Board Member Willenberg seconded the motion. The motion carried.

The meeting was adjourned at 2:55 p.m.